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8 UNITED STATES DISTRICT COURT  
9 FOR THE EASTERN DISTRICT OF CALIFORNIA  
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11 AUTHUR J.M. BATTLE, III,

12 Petitioner,

13 v.

14 DAVID HOLBROOK,<sup>1</sup>

15 Respondent.  
16

Case No. 2:20-cv-01851-JAM-JDP (HC)

ORDER TO SHOW CAUSE WHY THIS  
CASE SHOULD NOT BE DISMISSED FOR  
FAILURE TO PROSECUTE AND FAILURE  
TO COMPLY WITH LOCAL RULES

ECF No. 17

RESPONSE DUE WITHIN TWENTY-ONE  
DAYS

17  
18 On May 7, 2021, respondent filed a motion to dismiss this case. ECF No. 17. To date,  
19 petitioner has not filed a response.

20 In cases where a party is incarcerated and proceeding without counsel, a responding party  
21 is required to file either an opposition or a statement of non-opposition not more than twenty-one  
22 days after the motion is served. E.D. Cal. L.R. 230(l). Failure “to file an opposition or to file a  
23 statement of no opposition may be deemed a waiver of any opposition to the granting of the  
24 motion and may result in the imposition of sanctions.” *Id.*

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27 <sup>1</sup> David Holbrook is the Warden of Chuckawalla Valley State Prison, the institution where  
28 plaintiff is currently housed. Accordingly, the court substitutes David Holbrook as respondent in  
this case. *See* Fed. R. Civ. P. 25(d); *Brittingham v. United States*, 982 F.2d 378, 379 (9th Cir.  
1992).

1 To manage its docket effectively, the court imposes deadlines and requires litigants to  
2 meet them. The court may dismiss a case based on plaintiff's failure to prosecute or to comply  
3 with its orders or the local rules. *See* Fed. R. Civ. P. 41(b); *Hells Canyon Pres. Council v. U.S.*  
4 *Forest Serv.*, 403 F.3d 683, 689 (9th Cir. 2005); *Carey v. King*, 856 F.2d 1439, 1440-41 (9th Cir.  
5 1988). Involuntary dismissal is a harsh penalty, but a district court has a duty to administer  
6 justice expeditiously. *See Pagtalunan v. Galaza*, 291 F.3d 639, 642 (9th Cir. 2002);  
7 Fed. R. Civ. P. 1.

8 I will give petitioner a chance to explain why the court should not dismiss the case based  
9 on his failure to timely file either an opposition or a statement of non-opposition. Petitioner's  
10 failure to respond to this order will constitute a failure to comply with a court order and will result  
11 in a recommendation that this action be dismissed.

12 Accordingly, it is hereby ORDERED that:

13 1. Petitioner shall to show cause within twenty-one days why this case should not be  
14 dismissed for failure to prosecute and failure to comply with the court's local rules.

15 2. Should petitioner wish to continue with this action, he shall, within twenty-one days,  
16 file either an opposition or a statement of non-opposition to respondent's motion.

17 3. David Holbrook is substituted as respondent, and the Clerk of Court is directed to  
18 amend the case name to *Battle v. Holbrook*, 2:20-cv-01851-JAM-JDP.

19 IT IS SO ORDERED.  
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21 Dated: June 23, 2021

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23 JEREMY D. PETERSON  
24 UNITED STATES MAGISTRATE JUDGE  
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